

SENATE BILL No. 618

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2; IC 8-1.5-3-16.

Synopsis: Acquisition of utility property. Provides that a municipality or a municipally owned utility may not purchase the property of a utility company that provides water or sewer service or a regional sewer and water district unless the utility regulatory commission (IURC) finds that the utility company has continued violations of the IURC's orders or the law regulating the utility company after the IURC has ordered compliance or finds after a review that the utility company has severe deficiencies that the utility company has failed to remedy. Provides that a municipality or a public utility may not acquire any of the property of a rural electric membership corporation (REMC) without the consent of the REMC. Provides that the IURC continues to have jurisdiction over rates and charges of a municipally owned utility charged to the customers of the municipally owned utility located outside the municipality's boundaries. Requires the office of the utility consumer counselor to represent such customers in rate cases.

Effective: Upon passage.

Gard, Long

January 24, 2005, read first time and referred to Committee on Homeland Security, Utilities, and Public Policy.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 618

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-92 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 92. **(a)** Every license, permit,
3 or franchise granted after April 30, 1913, to ~~any~~ a public utility shall
4 have the effect of an indeterminate permit subject to:

5 **(1)** the provisions of this chapter; and ~~subject to~~

6 **(2)** the provisions that:

7 **(A)** the license, franchise, or permit may be revoked by the
8 commission for cause; or ~~that~~

9 **(B)** the municipality may purchase the property of ~~such a~~
10 public utility, as provided in this section. ~~Any such~~

11 **(b) This subsection does not apply to a utility company (as**
12 **defined in IC 8-1-30-2). A municipality is authorized to purchase such**
13 **property and every such public utility is required to sell such property**
14 **at the value and according to the terms and conditions as provided in**
15 **this chapter.**

16 **(c) This subsection applies to a utility company (as defined in**
17 **IC 8-1-30-2). A municipality or a municipally owned utility may**

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1 **not purchase the property of a utility company under this chapter**
 2 **except as provided in IC 8-1-30.**

3 (d) If this chapter should be repealed or annulled, then all such
 4 indeterminate franchises, permits, or grants shall cease and become
 5 inoperative, and in place ~~thereof~~ **such of the indeterminate franchise,**
 6 **permit, or grant, the** utility shall be reinstated in the possession and
 7 enjoyment of the license, permit, or franchise surrendered by ~~such~~ **the**
 8 utility at the time of the issue of the indeterminate franchise, permit, or
 9 grant, but in no event shall such reinstated license, permit, or franchise
 10 be terminated within a less period than five (5) years from the date of
 11 the repeal or annulment of this chapter.

12 SECTION 2. IC 8-1-2-92.5 IS ADDED TO THE INDIANA CODE
 13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: **Sec. 92.5. A municipality, a municipally owned**
 15 **utility, or a public utility may not acquire any property of a rural**
 16 **electric membership corporation without the consent of the rural**
 17 **electric membership corporation.**

18 SECTION 3. IC 8-1-2-93 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE UPON PASSAGE]: **Sec. 93. (a) This section does not**
 20 **apply to a utility company (as defined in IC 8-1-30-2).**

21 (b) Any public utility accepting or operating under any
 22 indeterminate license, permit, or franchise granted after April 30, 1913,
 23 shall by acceptance of any such indeterminate license, permit, or
 24 franchise be deemed to have consented to a future purchase of its
 25 property including property located in contiguous territory within six
 26 (6) miles of the corporate limits of such municipality by the
 27 municipality in which such utility is located, at the value and under the
 28 terms and conditions as provided in this chapter, and shall thereby be
 29 deemed to have waived the right of requiring the necessity of such
 30 taking to be established by the judgment of a court, and to have waived
 31 all other remedies and rights relative to condemnation, except such
 32 rights and remedies as are provided in this chapter and shall have been
 33 deemed to have consented to the revocation of its license, permit, or
 34 franchise by the commission for cause.

35 SECTION 4. IC 8-1.5-3-16 IS ADDED TO THE INDIANA CODE
 36 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: **Sec. 16. (a) This section applies to a municipally**
 38 **owned utility that has been taken out of the commission's**
 39 **jurisdiction.**

40 (b) As used in this section, "nonmunicipal customer" refers to
 41 a customer of a municipally owned utility that receives services
 42 outside the boundaries of the municipality.

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1 (c) Notwithstanding other provisions of this article, the
2 commission retains jurisdiction over the rates and charges of a
3 municipally owned utility charged to the municipally owned
4 utility's nonmunicipal customers.

5 (d) The office of the utility consumer counselor shall represent
6 the interests of the nonmunicipal customers of a municipally owned
7 utility in a case relating to the municipally owned utility's rates and
8 charges.

9 SECTION 5. An emergency is declared for this act.

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